

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1764

AN ACT

To repeal section 375.1175, RSMo, and to enact in lieu thereof two new sections relating to insurance, with a referendum clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Section 375.1175, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections 1.330
3 and 375.1175, to read as follows:

4 1.330. 1. No law or rule shall compel, directly or
5 indirectly, any person, employer, or health care provider to
6 participate in any health care system.

7 2. A person or employer may pay directly for lawful health
8 care services and shall not be required by law or rule to pay
9 penalties or fines for paying directly for lawful health care
10 services. A health care provider may accept direct payment for
11 lawful health care services and shall not be required by law or
12 rule to pay penalties or fines for accepting direct payment from
13 a person or employer for lawful health care services.

14 3. Subject to reasonable and necessary rules that do not

substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law or rule.

4. This section does not:

(1) Affect which health care services a health care provider or hospital is required to perform or provide;

(2) Affect which health care services are permitted by law;

(3) Prohibit care provided under workers' compensation as provided under state law;

(4) Affect laws or regulations in effect as of January 1, 2010;

(5) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services.

5. As used in this section, the following terms shall mean:

(1) "Compel", any penalties or fines;

(2) "Direct payment or pay directly", payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service;

(3) "Health care system", any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants;

(4) "Lawful health care services", any health-related

1 service or treatment to the extent that the service or treatment
2 is permitted or not prohibited by law or regulation that may be
3 provided by persons or businesses otherwise permitted to offer
4 such services; and

5 (5) "Penalties or fines", any civil or criminal penalty or
6 fine, tax, salary or wage withholding or surcharge or any named
7 fee with a similar effect established by law or rule by a
8 government established, created or controlled agency that is used
9 to punish or discourage the exercise of rights protected under
10 this section.

11 375.1175. 1. The director may petition the court for an
12 order directing him to liquidate a domestic insurer or an alien
13 insurer domiciled in this state on the basis:

14 (1) Of any ground for an order of rehabilitation as
15 specified in section 375.1165, whether or not there has been a
16 prior order directing the rehabilitation of the insurer;

17 (2) That the insurer is insolvent;

18 (3) That the insurer is in such condition that the further
19 transaction of business would be hazardous, financially or
20 otherwise, to its policyholders, its creditors or the public;

21 (4) That the insurer is found to be in such condition after
22 examination that it could not meet the requirements for
23 incorporation and authorization specified in the law under which
24 it was incorporated or is doing business; or

25 (5) That the insurer has ceased to transact the business of
26 insurance for a period of one year.

27 2. Notwithstanding any other provision of this chapter, a
28 domestic insurer organized as a stock insurance company may

1 voluntarily dissolve and liquidate as a corporation under
2 sections 351.462 to 351.482, provided that:

3 (1) The director, in his or her sole discretion, approves
4 the articles of dissolution prior to filing such articles with
5 the secretary of state. In determining whether to approve or
6 disapprove the articles of dissolution, the director shall
7 consider, among other factors, whether:

8 (a) The insurer's annual financial statements filed with
9 the director show no written insurance premiums for five years;
10 and

11 (b) The insurer has demonstrated that all policyholder
12 claims have been satisfied or have been transferred to another
13 insurer in a transaction approved by the director; and

14 (c) An examination of the insurer pursuant to sections
15 374.202 to 374.207 has been completed within the last five years;
16 and

17 (2) The domestic insurer files with the secretary of state
18 a copy of the director's approval, certified by the director,
19 along with articles of dissolution as provided in section 351.462
20 or 351.468.

21 Section B. This act is hereby submitted to the qualified
22 voters of this state for approval or rejection at an election
23 which is hereby ordered and which shall be held and conducted on
24 Tuesday next following the first Monday in August, 2010, pursuant
25 to the laws and constitutional provisions of this state for the
26 submission of referendum measures by the general assembly, and
27 this act shall become effective when approved by a majority of
28 the votes cast thereon at such election and not otherwise.

Section C. Pursuant to chapter 116, RSMo, and other applicable constitutional provisions and laws of this state allowing the general assembly to adopt ballot language for the submission of this act to the voters of this state, the official ballot title of this act shall be as follows:

"Shall the Missouri Statutes be amended to:

- Deny the government authority to penalize citizens for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful healthcare services?
- Modify laws regarding the liquidation of certain domestic insurance companies?".